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Attorneys for Plaintiffs

ACER, INC.,  
ACER AMERICA CORPORATION and  
GATEWAY, INC.

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

ACER, INC.,  
ACER AMERICA CORPORATION and  
GATEWAY, INC.,

Plaintiffs,

v.

TECHNOLOGY PROPERTIES  
LIMITED, PATRIOT SCIENTIFIC  
CORPORATION, and ALLIACENSE  
LIMITED,

Defendants.

Case No. C 08-00877 JF

**PLAINTIFFS' CIVIL L.R. 3-12  
ADMINISTRATIVE MOTION TO  
CONSIDER WHETHER CASES  
SHOULD BE RELATED**

**[CIV. L.R. 3-12]**

HTC CORPORATION and  
HTC AMERICA, INC.,

Plaintiffs,

v.

TECHNOLOGY PROPERTIES  
LIMITED, PATRIOT SCIENTIFIC  
CORPORATION, and ALLIACENSE  
LIMITED,

Defendants.

Case No. C 08-00882 JL

1 ASUSTEK COMPUTER, INC. and  
2 ASUS COMPUTER INTERNATIONAL,

Case No. C 08-00884 EMC

3 Plaintiffs,

4 v.

5 TECHNOLOGY PROPERTIES  
6 LIMITED, PATRIOT SCIENTIFIC  
7 CORPORATION, MCM PORTFOLIO  
LLC and ALLIACENSE LIMITED,

8 Defendants.

Pursuant to Civil Local Rule 3-12(b), plaintiffs Acer, Inc. (“Acer”), Acer America Corporation (“Acer America”) and Gateway, Inc. (“Gateway”) (collectively “Plaintiffs”) submit this Administrative Motion requesting consideration of whether the three cases list below, all of which are pending in this district, are related and should therefore be assigned to the same judge:

- (1) *Acer, Inc., Acer America Corp. and Gateway, Inc. v. Technology Properties Ltd., Patriot Scientific Corp. and Alliacense Ltd.*, Case No. 08-00877 JF (N.D. Cal., filed on February 8, 2008);
- (2) *HTC Corporation and HTC America, Inc. v. Technology Properties Ltd., Patriot Scientific Corp. and Alliacense Ltd.*, Case No. 08-00882 JL (N.D. Cal., filed on February 8, 2008); and
- (3) *ASUSTek Computer, Inc. and ASUS Computer Int’l v. Technology Properties Ltd., Patriot Scientific Corp., MCM Portfolio LLC and Alliacense Ltd.*, Case No. 08-00884 EMC (N.D. Cal., filed on February 8, 2008) (collectively the “Actions”).

On February 8, 2008, Plaintiffs filed the first action identified above against Technology Properties Limited (“TPL”), Patriot Scientific Corporation (“Patriot”), and Alliacense Limited (“Alliacense”) (the “Acer/Gateway Action”) seeking declaratory judgment of non-infringement and invalidity of United States Patent Nos. 5,809,336 (“336 patent”), 5,784,584 (“584 patent”), and 5,440,749 (“749 patent”) (collectively, the “patents-in-suit”). The second and third actions identified above were filed on the same date. As explained below, all three actions are “related” within the meaning of Civil Local Rule 3-12 and should be assigned to the same judge.

Local Rule 3-12 provides that an action is related to another action pending in this district when “(1) [t]he actions concern substantially the same parties, property, transaction or event; and (2) [i]t appears likely that there will be an unduly burdensome duplication of labor and expense or conflicting results if the cases are conducted before different Judges.” As shown in the chart below, the Actions satisfy both prongs of this test:

No.	Plaintiffs	Defendants	Relief sought	Patents
08-877	Acer, Inc. Acer America Corp. Gateway, Inc.	Technology Properties, Ltd. Patriot Scientific Corp. Alliacense Ltd.	Declaratory judgment of non- infringement and invalidity	5,440,749 5,784,584 5,809,336
08-882	HTC Corporation HTC America, Inc.	Technology Properties, Ltd. Patriot Scientific Corp. Alliacense Ltd.	Declaratory judgment of non- infringement and invalidity	5,440,749 5,784,584 5,809,336 6,598,148
08-884	ASUSTek Computer ASUS Computer Int'l	Technology Properties, Ltd. Patriot Scientific Corp. Alliacense Ltd. MCM Portfolio, LLC	Declaratory judgment of non- infringement and invalidity	5,440,749 5,784,584 5,809,336 6,438,638 6,976,623

As shown above, each of the Actions concerns substantially the same parties, property, transaction or event. All three actions involve three common patents-in-suit (i.e., the '336, '548 and '749 patents), which are allegedly owned or controlled by TPL, Patriot and/or Alliacense. A fourth patent at issue in the HTC action, U.S. Patent No. 6,598,148 ("148 patent"), is in the same family as the three common patents and is a direct descendent of the '336 patent. All three actions essentially seek the same relief, and the defendants are substantially identical.<sup>1</sup>

The second prong of Local Rule 3-12(a) is also satisfied. Because the Actions involve common patents and identical defendants, they will require adjudication of many common legal and factual issues relating to claim construction, invalidity, ownership, standing and other affirmative defenses. Having the Actions conducted before more than one judge would create an unduly burdensome duplication of labor and expense and would present a substantial possibility of conflicting results on common legal and factual issues.

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<sup>1</sup> The ASUSTek action has one additional defendant, MCM Portfolio LLC ("MCM"). Plaintiffs believe that MCM is merely a patent holding company that is owned or controlled by the other defendants, thus presenting no material difference in the identity of the defendants.

1 Because the Actions satisfy both prongs of Local Rule 3-12(a), Plaintiffs respectfully  
2 request that the Actions be deemed “related” to each other and assigned to Judge Jeremy Fogel  
3 pursuant to Local Rule 3-12(f).

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5 Date: April 3, 2008

Respectfully submitted,

6 WHITE & CASE LLP

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8 By: /s/  
9 Mark R. Weinstein

10 Attorneys for Plaintiffs Acer, Inc.,  
11 Acer America Corp. and Gateway, Inc.  
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